

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA)	
)	Criminal No. 08-10352-NG
v.)	
)	
RICHARD SCHWARTZ)	
_____)	

GOVERNMENT'S SUBMISSION REGARDING PLEA AGREEMENT

On June 29, 2010, defendant Richard Schwartz ("Schwartz" or "the defendant") is scheduled to change his plea to guilty in this case pursuant to a written plea agreement negotiated by his attorneys with the United States Attorney for the District of Massachusetts. Mr. Schwartz will plead guilty to Count One of the Indictment, charging him with conspiracy to commit visa fraud, in violation of Title 18, United States Code, Section 371.

Mr. Schwartz executed his plea agreement with the government on April 19, 2010. (See Plea Agreement, p. 8). In doing so, he acknowledged that he had read the agreement in its entirety, that he had discussed it with his attorneys, that he had discussed "the terms of this Plea Agreement," and that he was entering into the agreement "freely, voluntarily, and knowingly because I am guilty of the offenses to which I am pleading guilty and I believe this Agreement is in my best interest." (Plea Agr., p. 8). Mr. Schwartz's attorney also certified that Mr. Schwartz had read the Agreement, that she and Mr. Schwartz "have discussed its meaning," and that she believed Mr. Schwartz understood the

Agreement and entered into it "freely, voluntarily and knowingly." (Plea Agr., p. 8).

Among the "terms of the Plea Agreement" are several provisions relating to sentencing that reflect the bargaining between the parties in negotiating Mr. Schwartz's plea agreement. Most significantly, the plea agreement states that the government agrees not to charge the defendant with any other crime based on the information the government held at the date of the agreement. In this case, this concession by the government is extremely significant because the government, in fact, possesses information that could be used to prosecute the defendant for other serious crimes not included in the Indictment. This was a major concession by the government.

Additionally, the plea agreement also states that the United States has agreed to take the position at sentencing that Mr. Schwartz should be sentenced to 12 months of incarceration or at the low end of the applicable guideline range, whichever is higher. Moreover, the United States has agreed to a \$7,000 fine, and 24 months of supervised release -- all of which are below the high end of the guideline range. And finally, the United States has agreed that Mr. Schwartz should receive a two-level reduction to his Adjusted Offense Level pursuant to USSG §3E1.1.

The plea agreement also includes a waiver of the defendant's right to appeal or to bring collateral challenges. (Plea Agr.,

¶7). This provision was negotiated between the parties and is consistent with First Circuit law. See United States v. Teeter, 257 F.3d 14, 21 (1st Cir. 2001) (the First Circuit upheld the validity of a defendant's presentence waiver of appeal rights); see also United States v. Ciampi, 419 F.3d 20 (1st Cir. 2005) (also holding appeal waiver valid); United States v. Soto-Cruz, 449 F.3d 258, 260-261 (1st Cir. 2006) (same).

Accordingly, the government respectfully attaches the plea agreement in this case as Exhibit A to this Submission.

Respectfully submitted,

CARMEN M. ORTIZ
United States Attorney

By: /s/ Jeffrey M. Cohen
Jeffrey M. Cohen
Assistant U.S. Attorney

June 28, 2010

CERTIFICATE OF SERVICE

I, Jeffrey M. Cohen, Assistant United States Attorney, do hereby certify that this document, filed through ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those indicated as non registered participants on this date.

/s/ Jeffrey M. Cohen
Jeffrey M. Cohen
Assistant U.S. Attorney